

**REMARKS**

This application presently includes Claims 1-15, in which Claims 1-11, 13 and 15 stand rejected. As apparent from the Amendments to the Claims attached to this response, Claims 1, 7-10, 14 and 15 have been amended to define Applicant's invention more clearly. Claim 13 has been canceled while Claims 16-21 have been newly added. Claims 2-6, 11 and 12 remain unchanged.

Specification

The typographical error on Page 1 has been corrected. It is requested that this correction be entered.

Claim Rejections - 35 USC 102 & 103

Claims 1-4, 7, 9-11 and 15 were rejected under 35 USC 102(b) as being anticipated by Oliff (US 4,192,540). Claims 1-4, 7-11, 13 and 15 were rejected under 35 USC 102(b) as being anticipated by Graser (US 3,767,041). Claims 1-5 and 7-9 were rejected under 35 USC 103(a) as being unpatentable over Oliff or Graser in view of Saulas '071 (WO 98/49071). Claim 6 was rejected under 35 USC 103(a) as being unpatentable over Oliff, Graser and Saulas '071 in view of Coudoin (GB 2,100,217). In view of these rejections, Claims 1, 10 and 15 have been amended.

Claim 1 has been amended to limit the scope to a carton having the structural features: (1) the top and base panels are spaced, (2) the retaining structure is disposed in the tubular structure and (3) the opening as a whole is disposed directly below the outer panel portion. These features can find support, for example, in Figures 3 and 4 as originally filed. The arrangement of amended Claim 1 is of utility because the opening of the retaining structure is hidden from view by the outer panel portion (which enhances the carton in terms of appearance) and the carton can yet enjoy the benefit of the opening that effectively engages the container. Neither Oliff nor Graser discloses the arrangement as defined now by Claim 1 nor do they remotely suggest that such an arrangement would be of any benefit. Therefore, Claim 1 is not anticipated by Oliff or Graser.

Regarding the obviousness rejection, Saulas '071 would meet the above features (1) and (2) of Claim 1 if the winged structure 30 of Saulas '071 were regarded as equivalent to the "retaining structure" in Claim 1. However, Saulas '071 does not disclose the feature (3) because the winged structure 30 does not have any opening. In Saulas '071, an opening indeed is defined in the inner panel portion 12 by each winged structure 30; however such an opening does not provide a container-engaging edge as required by Claim 1. Therefore, no combination of Oliff, Graser and Saulas '071 would create the invention as now brought out by Claim 1

In addition, it is respectfully submitted that to provide a carton with the features (1) and (2), Saulas '071 requires the winged structure 30 to be struck from the inner panel portion 12. In other words, Saulas '071 does not teach how to add the features (1) and (2) to a carton without using the winged structure. The winged structure 30, on the other hand, is not compatible with the retaining structure in the carton of either Oliff or Graser --- the winged structure cannot be employed by the carton of either Oliff or Graser without removing all their original retaining structures because the inner panel portion of the carton must be used to provide the winged structure. Accordingly, persons skilled in the art would not be motivated to modify the carton of Oliff or Graser in view of teachings in Saulas '071 to provide the carton of Oliff or Graser with the features (1) and (2).

For the above reasons, Claim 1 is believed allowable.

Claims 2-9 depend, directly or indirectly, from Claim 1, and therefore they are also allowable.

Claim 10 has been amended to require that (i) the carton is of a tubular structure, (ii) the inner and outer panel portions of the top panel are in substantially the same plane, (iii) the retaining structure is disposed in the tubular structure, and (iv) the opening is disposed directly below the outer panel portion. Neither Oliff nor Graser discloses the arrangement as defined now by Claim 10. Therefore, Claim 10 is not anticipated by Oliff or Graser and is believed allowable.

Claims 11 and 12 depend from Claim 10 and therefore are also allowable.

Claim 15 has been amended to require that (I) the outer top panel portion that is to be secured directly to the inner top panel portion defines one of the opposed ends of the blank. Referring to Figure 3 of Oliff, panel 14 is not to be secured directly to the inner top panel 8 to which the retaining structure 12 and 16 is connected. In fact, Oliff does not disclose any panel that is to be secured directly to the inner top panel 8. Referring to Figure 1 of Graser, panel 17 is not to be directly secured to the inner top panel 9 to which the retaining structure 13 and 19 is connected. Referring to Figures 6 and 7 of Graser, panel 42 or 19' is not to be secured directly to the inner top panel 8' to which the retaining structure 12' is connected. In fact, Graser does not disclose any panel that is to be directly secured to the inner top panel 9 or 8'. Accordingly, neither Oliff nor Graser discloses the arrangement as defined now by Claim 15. Claim 15 therefore is believed allowable.

#### New Claims

New Claims 16-18 depend, directly or indirectly, from Claim 1 that is now allowable.

Accordingly, new Claims 16-18 are allowable.

New Claim 19 is in independent form and requires that the engagement panel is spaced below the outer panel portion of the top panel and have its opposed side edges engaged with first and second adjacent containers respectively. None of the aforementioned cited references discloses such an arrangement. For this reason, Claim 19 is allowable.

Claims 20 and 21 depend from Claim 19 and thus are also allowable.

#### Allowable Subject Matter

The Examiner suggested that Claim 14 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. Taking this suggestion, Claim 14 has

Serial No. 10/780,776  
Art Unit 3728  
November 29, 2005

been rewritten in independent form including all of the limitations of Claim 13. Accordingly, Claim 14 is allowable.

It is earnestly requested that in view of the above remarks and the attached Amendments, the application, as a whole, receive favorable reconsideration, and that Claims 1-12 and 14-21 be allowed.

Respectfully submitted,


  
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